

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 97-0278

**Motor Vehicle Excise Tax
For The Period: 1995 and 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 6-6-5-1; IC 6-6-5-6; IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on a 1996 Mercury Van.

II. Tax Administration – Penalty and Interest

Authority: IC 6-8.1-10-2.1; 6-8.1-10-1

Taxpayer protests the imposition of the penalty and interest.

STATEMENT OF FACTS

Taxpayer was assessed the motor vehicle excise tax on a van. Taxpayer and her husband entered into a lease agreement with a Kentucky automobile dealership. Taxpayer states that the dealership told her that since her husband owned property in Kentucky that the vehicle could be licensed and registered in Kentucky. Taxpayer was an Indiana resident for the tax years at issue, and admits in her protest letter that the vehicle had been licensed incorrectly.

I. Motor Vehicle Tax – Imposition

DISCUSSION

Pursuant to Indiana Code section 9-18-2-1, an Indiana resident is required to register all motor vehicles owned by that person that are operated in Indiana. The Motor Vehicle Excise Tax is also outlined in IC 6-6-5-2:

There is imposed an annual license tax upon vehicles, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes, but in addition to any registration fees imposed on such vehicles.

The term “vehicle” in IC 6-6-5-1 means a vehicle subject to annual registration as a condition of its operation on the public highways pursuant to the motor vehicle registration laws of the states.

Since there is no dispute as to the issue that the taxpayer *should* have registered the vehicle in Indiana, the Department denies the taxpayer’s protest.

FINDING

Taxpayer’s protest is denied.

II. Tax Administration – Penalty and Interest

DISCUSSION

Pursuant to Indiana Code section 6-8.1-10-2.1, the Department may waive the penalty upon the taxpayer’s affirmative showing of a reasonable cause for the failure to pay the proper tax. The taxpayer argues that she relied upon the Kentucky dealership’s advice. The Department finds that the law in this area and in this particular situation is clear; the taxpayer has not met her burden of showing reasonable cause.

The taxpayer also protests the imposition of interest. Pursuant to IC 6-8.1-10-1(e) the Department may not “waive the interest imposed [in] this section.” It should also be noted that the taxpayer received correspondence from the Department dated May 6, 1997, informing the taxpayer that in order to avoid the interest the taxpayer must pay the liability up-front/concurrent with the protest.

FINDING

The taxpayer’s protest is denied.